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09/638,304	08/14/2000	Connie Carmichael	255/003	9736

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01/28/2004

INTERNATIONAL APPAREL GROUP LLC  
11 COLUMBIA STREET  
SUITE B  
ALISO VIEJO, CA 92656

EXAMINER
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BAYERL, RAYMOND J

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/638,304

**Applicant(s)**

CARMICHAEL ET AL.

**Examiner**

Raymond J. Bayerl

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> | 6) <input type="checkbox"/> Other: _____                                    |

1. The drawings are objected to because of the unacceptable abbreviation "B/T" ("between?"; fig 2, reference numeral 230) and the reference numeral "208", when the specification calls out "408" (figs 3, 4). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. Claims 7/3, 7/4, 17/13, 17/14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Dependent claim 3 (see also claim 13) recites that the "single frame primary image models comprise video images". How is it, then, that multiply-dependent claim 7 (see also claim 17) can stipulate that they are "three dimensional"? The scope of applicant's disclosure does not extend to true "video" (as distinguished from computer-generated graphics, as in claim 6) that can also have this characteristic. It is not clear, in view of the present specification, what is being claimed.

Similarly, dependent claim 4 (see also claim 13) recites "film images", but claim 7/4 (see also claim 17/14) does not clearly indicate what part of the disclosure is being relied upon, to create the "three dimensional" presentation from such a source.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 6, 8, 10, 12 – 18, 22, 24 are rejected under 35 U.S.C. 102(a) and 102(e) as being anticipated by van Hoff et al. ("van Hoff"; US #5,959,623).

As per independent claim 1's "system for immersive advertising" that is based upon the use of "an advertising sequence stored in a memory", van Hoff identically discloses DISPLAYING USER SELECTED SET OF ADVERTISEMENTS, by selecting the particular information to be displayed (Abstract). The display of user selectable advertising information to a user accessing the World Wide Web is based upon the creation of a user established list 210 of preferred advertising lists comprising a plurality of pointers 212-1 through 212-n associated with informational image lists (fig 2; col 4, lines 1 – 21).

The structure of van Hoff's list of pointers is such that the plural individual records within such a list read upon "a plurality of single frame primary image models". From the pointers, "a plurality of fill images" are obtained from running applet(s) 310 that access images 312 (col 4, lines 37 – 51) to be inserted in the sequence of the list. By a launch of the Ad Window application 118 (col 5, line 62 – col 6, line 7), van Hoff's user

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selected list is built (col 3, lines 13 – 18), to anticipate the claimed “graphical user interface...enabling a user to configure said advertising sequence”.

As per claim 2, van Hoff clearly has “means for presenting said advertising sequence to the user”. Claim 3’s “video” (see also claim 13) is found in van Hoff’s identical use of video data (col 7, line 63 – col 8, line 11), which can be “film images” (claims 4, 14). Also please note the disclosure of displaying a sequence of still images in van Hoff, which reads upon “still frame images” (claims 5, 8, 15, 18). The World Wide Web environment of van Hoff will support “computer generated” “primary image models” in the list associated with the Ad Window output (claims 6, 16).

Claim 10’s “fill images of products for advertising” are found in van Hoff’s informational image retrieval.

Independent claim 12 expands upon the basic setting of the claim 1 system, by reciting the use of “a wide area network” in which “a presentation web page” is invoked. However, this is precisely the environment in which van Hoff operates, as noted above.

Independent claim 22’s “method of immersive advertising on a wide area computer network” is also anticipated by van Hoff, who permits “customizing...said advertising sequence”. In so doing, the van Hoff user may “reconfigure the advertising sequence” (claim 24).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 7, 9, 11, 17, 19 – 21, 23, 28 – 32, 36 – 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Hoff in view of Roebuck ("Roebuck"; US #2002/0026388 A1).

As per claim 7's use of a "three dimensional" "single frame primary image model" (see also claim 17), it cannot be fairly inferred from van Hoff that such advanced Web browser techniques were available. However, the use of a virtual representation of the product in a virtual world is a central feature in Roebuck's METHOD OF DISTRIBUTING A PRODUCT. In particular, Roebuck envisions that a virtual three-dimensional model of the product (paragraph 0003) is subject to "Enhancements" that customize the individual experience (paragraph 0042).

Thus, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to enhance the user-selectable advertising sequence as per van Hoff, through the use of "three dimensional" "image model" entities as per

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Roebuck, with the advantage resting in the added realism that is made available, using the virtual techniques of Roebuck.

By implementing "Enhancements", Roebuck suggests claim 9's "dynamically altered image components" (claims 9, 19). The capability "of enabling a user to view the product from a plurality of perspectives in real time" (claims 11, 20, 23, 31) is a key feature of Roebuck; please note paragraph 0006, in which a different view of the product is obtained. Roebuck's "3-D Virtual Reality Web Based Community" (paragraph 0038) suggests claim 21's "VRML".

Independent claim 28, in which a "multi-media presentation comprising a plurality of images of said first product in use" are supplied, reads upon the virtual world modeling of Roebuck, in which such demonstration occurs, when taken in combination with van Hoff's sequential advertising presentation. In both van Hoff and Roebuck, "modifying...the multi-media presentation in real-time" is achieved.

Roebuck's "Enhancements" and customized user experience suggest claim 29's "instruction" "to modify a specification of the first product", and the exploration permitted in the virtual world allows one product to be replaced by another (claim 30).

It is possible "to view the presentation from a plurality of perspectives simultaneously" (claim 32), in the case of Roebuck's intentional instantiation of plural product objects, as is also a "view" of "the first product in combination with a second complementary product" (claim 36) or a "third" (claim 37).

Claims 38, 39, 40 are rejected for reasons similar to those given for the rejections of claims 6, 4, 3, respectively. The advertising images in van Hoff can additionally be

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“photographs” (claim 41). As noted above, and with respect to claim 42, Roebuck discloses “a three dimensional virtual environment”, through which the user may “navigate” (claim 43).

8. Claims 25 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Hoff in view of Johnson (“Johnson”; US #5,493,490).

As per claim 25’s “allowing the user to pause the advertising sequence” and claim 27’s “allowing the user to decrease the time elapsed between the frames”, the Web-based subscription of van Hoff does not appear, **explicitly**, to give the user control beyond simply turning it off.

However, in more established proprietary environments, such as Johnson ELECTRONIC PROPOSAL PREPARATION, a customized proposal (col 2, lines 17 – 27) in the promotion of a product should reasonably be viewed at the leisure of the customer, who may provide as van Hoff does “a description of products and services” within an “advertising sequence” (claim 26).

It would also have been obvious to the person having ordinary skill in the art at the time of applicant’s invention to give the user customized viewing rates in van Hoff, by following the suggestion of Johnson’s more flexible proposal, for this assists the properly configured user in product selection and purchase.

9. Claims 33 – 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Hoff in view of Roebuck and Johnson.



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As noted above with respect to claims 25, 27, Johnson's customized proposal should be one in which the user may "speed up the presentation" (claim 33), "slow down the presentation" (claim 35) or "pause the presentation" (claim 34).

It would finally have been obvious to the person having ordinary skill to incorporate the relevant teachings of Roebuck's virtual world and Johnson's proposal into the advertising sequence system of van Hoff, for these have advantages in assisting the customer in viewing the presentation effectively.


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The additionally-cited US Patent documents (see form PTO-892) relate generally to user-accessible product demonstration and customization.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (703) 305-9789. The examiner can normally be reached on M - F from 10:00 AM to 5:00 PM.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703) 308-3116. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (703) 872-9306.

13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

  
RAYMOND J. BAYERL  
PRIMARY EXAMINER  
ART UNIT 2173

15 January 2004